

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PAN AMERICAN AIRWAYS CORP.,)

Plaintiff/Counter-Defendant,)

v.)

ROBERT E. BARNES,)

Defendant/Counter-Plaintiff.)

C.A. No. 04-CV-10515-JLT

DECLARATION OF DAVID A. FINK

David A. Fink declares as follows:

1. I am the president of Pan American Airways Corporation (“Pan Am”) and am familiar with the facts set forth herein. I make this declaration in support of Pan Am’s Reply in Opposition.
2. In February of 2002, Robert E. Barnes (“Barnes”) was employed by Pan Am and participated in the process of accepting delivery of certain Boeing 727 Aircraft and the engines (“the Engines”) installed thereon.
3. Within the Pan Am management structure, the Vice President of Maintenance—a position held by Barnes from April, 2002 to July, 2003—was responsible for ensuring that the Engines were properly preserved and maintained.
4. During the course of his employment, Barnes never disclosed to me, either during;

the staff meeting held every morning or otherwise, that the Engines were not properly preserved.

5. Failure to properly preserve and maintain the Engines, or to ensure that his staff was properly preserving and maintaining the Engines, was outside the scope of Barnes's employment with Pan Am.

6. As the Vice President of Maintenance, Barnes had a duty to properly preserve and maintain the Engines, or to ensure that his staff was properly maintaining and preserving the Engines, which he failed to do.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on October 12, 2005.



David A. Fink